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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,709	03/31/2000	Jay A. Walker	99-082	4003

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WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

EXAMINER

FADOK, MARK A

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 05/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/540,709	Applicant(s) WALKER ET AL.	
	Examiner Mark A Fadok	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4, 6, 6</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garfinkle (6,512,570), in view of Official Notice, in view of Harris and further in view of Scroggie (6,014,634).

Garfinkle teaches all the limitations of the instant claims except as follows;
Garfinkle teaches a system for ordering products on-line at one price and later pick up the product at a retailer who receives a price from a central controller which is less than the agreed upon price between the customer and the controller. However, Garfinkle does not teach the following:

- identifying a subsidy offer greater than the difference. Offering subsidies such as manufacturer rebates is old and well known in the art. It would be obvious to a person of ordinary skill in the art to include in Garfinkle, a subsidy offer, because this would allow the product to be sold for a lower price and would provide an incentive to the buyer to purchase through the system of Garfinkle.

- the payment is received in a plurality of installments. Installment payments are a practice that is old and well known in the art. It would have been obvious to a person of ordinary skill in the art to include in Garfinkle, installment payments, because this would allow the purchaser to make payments on terms, which would allow the buyer to purchase more product and thus increase sales.
- Determining that an amount of the product redeemed by the customer exceeds a quantity remaining under the agreement. As mentioned above maintaining inventory control and providing only what is in an agreement is old and well known in the art and detecting overages as well as shortages in relation to a specific agreement is commonly practiced.
- The payment is received in a plurality of installments. Installment payments are a practice that is old and well known in the art. It would have been obvious to a person of ordinary skill in the art to include in Garfinkle, installment payments, because this would allow the purchaser to make payments on terms, which would allow the buyer to purchase more product and thus increase sales.
- wherein the payment is received after the X units of the product are redeemed. Collecting payment equal to some portion of the redeemed quantity is old and well known in the art. It would be obvious to a person of ordinary skill in the art to include in Garfinkle receiving payment for product picked up, because this would assure that payment is received for the products delivered and therefore additional terms for receiving product without payment would be avoided.

- updating data indicating a quantity remaining under the agreement based on the received data. Updating the quantity to adjust for the quantity remaining and providing this information to the buyer is old and well known in the art. It would be obvious to a person of ordinary skill in the art to include in Garfinkle, updating the quantity remaining, because this would assure proper accounting of the inventory and prevent products from being supplied which were not paid for and provides the buyer confirmation of quantity remaining.
- receiving an offer to purchase X units of the product for the customer-specified agreement price once the quantity remaining has been redeemed. Receiving an add-on price for additional product, which is the same as an original price of a former contract is old and well known in the art. It would be obvious to a person of ordinary skill in the art to include in Garfinkle selling additional product at a previously agreed to price, because this would increase the likelihood that the customer remains faithful to the supplier.
- extracting a payment from the customer equal to a specific amount which is something less than full amount is a design choice and therefore Garfinkle can include and number of payment derivatives it so chooses providing the customer agrees to the function.
- determining if the desired product is equivalent to the offer product;

authorizing a redemption of the number of units of the product if the desired product is equivalent to the offer product. Providing equivalents to a product upon redemption is old and well known in the art. It would be obvious to a person of ordinary skill in the art

top include in Garfinkle providing an alternative because this would provide the store with an option if the original product was out of stock and assure that a sale can be consummated.

Garfinkle in view of Scroogie teaches an encoded voucher used for redemption that discloses:

- receiving a redemption identifier;
- specified agreement price based on the redemption identifier;
- transmitting the redemption identifier to a controller;
- controlling a redemption device to stop dispensing the product after X

units of the product have been dispensed; and

- generating a second redemption identifier encoding the updated data; and outputting the second redemption identifier to the customer.

Garfinkle in view of Harris teaches;

- extracting a payment from the customer equal to (the agreement price multiplied by the quantity remaining under the agreement) plus (the difference multiplied by a retail price for the product) plus a penalty. Harris teaches penalties charged for lackluster service and defective materials. It would be obvious to a person of ordinary skill in the art to include in Garfinkle the penalties as taught by Harris, because penalties will ^{provide} means for assuring that terms agreed to are accomplished according to contract.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 305-7687 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-7206 [Informal/Draft communications, labeled

Art Unit: 3625

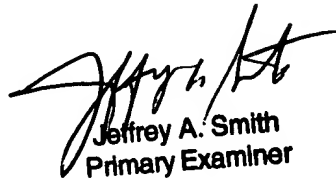
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.



Mark Fadok

Patent Examiner



Jeffrey A. Smith
Primary Examiner